

## **DISCLAIMER**

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## **APPLICATION OF**

**CENTRAL VIRGINIA ELECTRIC COOPERATIVE**

**CASE NO. PUE000583**

**For a general increase in rates**

### **REPORT OF HOWARD P. ANDERSON, JR.** **HEARING EXAMINER**

**August 22, 2001**

## **SUMMARY OF THE HEARING RECORD**

On November 1, 2000, as corrected on November 9, 2000, Central Virginia Electric Cooperative ("CVEC" or the "Cooperative") filed an application with the State Corporation Commission ("Commission") to revise its retail base rates, service charges, and terms and conditions of service on or after January 1, 2001. The Cooperative's application proposed establishing capped rates using a projected 2007 cost of service which would produce an additional \$8,827,026 annually in jurisdictional revenues and a 2.01 Times Interest Earned Ratio ("TIER"). Pursuant to Section 56-582 B (v) of the Code of Virginia, the Cooperative proposes to discount the capped distribution rate each year between 2001 and 2007 to match cost of service.

On December 8, 2000, the Commission entered an Order for Notice and Hearing ("Order") permitting the proposed rates to take effect on January 1, 2001, on an interim basis subject to refund. The Order directed that a Hearing Examiner be appointed to conduct further proceedings, established a procedural schedule, and set a hearing date of March 29, 2001. By Hearing Examiner's Ruling of February 28, 2001, the Commission Staff was granted a continuance of the hearing until July 10, 2001. The original hearing date of March 29, 2001, was retained for public witnesses at which time no public witnesses appeared.

Counsel appearing at the July 10, 2001, hearing were Guy T. Tripp, III, for CVEC and Wayne N. Smith for Commission Staff. Proof of the requisite notice was received as Exhibit A. A transcript of the hearing is filed with this Report.

At the commencement of the hearing, Staff and Company advised the Examiner that they had reached an agreement on all issues with one exception. A stipulation was marked as Company Exhibit 1 and made a part of the record.

## **DISCUSSION**

Pursuant to agreement of counsel, all prefiled testimony, with the exception of Company witness Turner's testimony, was received into the record without cross-examination. As set forth in the Stipulation, the Cooperative's agreed upon TIER range would be 1.75 to 2.25 percent for annual review and modification of rates. The additional revenue requirement and the total revenue

requirement of the Cooperative for the year 2007 are \$5,269,536 and \$47,613,120, respectively. The \$47,613,120 total revenue requirement for the year 2007 is to be the basis for determining the Cooperative's capped rates in accordance with Section 56-582 of the Code of Virginia and the basis for functionally unbundled retail rates.

Pursuant to the Stipulation, the Cooperative has proposed a rate adjustment mechanism to calculate a discount from the capped rates for the years 2001 through 2007, as permitted by Section 56-582 B(iv) of the Code of Virginia. The Cooperative has proposed, and the Staff agrees, that a discount of 6.72 percent shall be applied to the Cooperative's 2007 capped rates for service on or after January 1, 2001. The discount is based on a total revenue requirement of \$35,084,452 using the projected 2001 cost of service found in Attachment B to the Stipulation.

Annually, Commission Staff will evaluate financial information submitted by the Cooperative to determine whether the Cooperative's earnings are within a TIER range of 1.75 to 2.25. Based on the results of this earnings evaluation, the discount rate will be adjusted and applied to the capped rates to provide the Cooperative the opportunity to achieve a 2.0 TIER. Transition costs incurred by the Cooperative to comply with the requirements of the Virginia Electric Utility Restructuring Act of 1999 ("Restructuring Act") are to be included in per books expense in the financial information filed with the Commission. It is agreed that including transition costs shall not cause a decrease in the discount rate applied to capped rates.

Also pursuant to the Stipulation, the Cooperative's generation business will be removed from the annual financial status statement. Capped rates based on the 2007 revenue requirement include a projected level of purchased power expense for 2007. A Power Cost Adjustment Rider ("PCAR") is to be used to recover payment of load management credits. To this end, the PCAR is designed to recover the difference between actual monthly purchased power costs and the 2007 projected purchased power costs.

Finally, the Cooperative accepts the recommendations of Staff Witness Abbott for modifications to the Cooperative's terms and conditions for service.<sup>1</sup> These recommendations include provisions for modifying the tariffs to clearly identify the components of rates that may be procured from a third party supplier and those components of rates describing the distribution charges to be paid to CVEC by customers who buy power from a third party supplier. The Cooperative has also made modifications to its line extension policy for residential services to provide for a standard allowance of 1,400 feet for any full time residence or second residences that will not have full time occupancy. The Cooperative has also eliminated the \$1,000 maximum refund per lot where houses are constructed and service is extended after the initial service is established.

The single unresolved issue pertains to the refund of the monies collected from the residential customer class in excess of the rates determined to be just and reasonable. CVEC argues that, because the cost of the refund would exceed the amount to be refunded, no refund should be made. CVEC further states that since its customers are also the owners of the Cooperative, they

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<sup>1</sup> The terms and conditions are addressed by Staff witness Abbott at pages 25 through 32 of his direct testimony (Ex. No. GLA-8) filed June 19, 2001.

would ultimately bear the cost of the refund. It is Staff's position that the refund should be made as a matter of principle.

Cooperative witness Turner testified that the stipulated rates produce a refund to several of the rate classes, including large power and general service classes. All of the customers in the large power and general service classes will receive a refund under the rates agreed upon in this proceeding. Customers in the residential class subject to minimum charges would be due a refund because the minimum rates were reduced pursuant to the Stipulation. This portion of the refund is estimated to be \$61,000 and would be applicable to approximately 15,000 to 16,000 eligible customers and 54,000 to 55,000 bills. The higher minimum rates were charged for a period of six and one-half months. The average refund would be a little over a dollar per bill. There are customers in this class who are subject to the minimum charge some months and some months they are not. CVEC witness Turner estimates the cost of determining the minimum charge bills entitled to refund to be over \$50,000 in programming and employee labor time alone.<sup>2</sup>

As a practical matter the cost of a refund to the residential customers may ultimately exceed the actual refund, however, I find that the refund should be made. Section 56-582 of the Code of Virginia mandates that the Commission shall order a refund with interest of any portion of interim rates found excessive. The utility filing a rate case bears the risk that its interim rates may be found excessive and subject to refund. CVEC's request that this principle be overlooked in this case is unsound and contrary to the law in Virginia.

## **FINDINGS AND RECOMMENDATIONS**

Based on the application, the evidence presented in this case and the Stipulation, I find that the Stipulation and Exhibits attached thereto represent a fair and just resolution of this case and should be accepted. I further find the Cooperative should refund with interest any money realized from interim rates in excess of the rates agreed upon in the Stipulation.

I therefore **RECOMMEND** the Commission enter an order that:

- (1) **ADOPTS** the findings in this Report;
- (2) **DIRECTS** the prompt refund with interest of all amounts collected under the interim rates in excess of the rates found just and reasonable herein; and
- (3) **DISMISSES** this case from the Commission's docket of active cases and passes the papers herein to the file for ended causes.

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<sup>2</sup> Tr. 25.

## **COMMENTS**

The parties are advised that any comments (Section 12.1-31 of the Code of Virginia and Commission Rule 5 VAC 5-20-120) to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen (15) copies, within twenty-one (21) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been mailed or delivered to all counsel of record and any party not represented by counsel.

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Howard P. Anderson, Jr.  
Hearing Examiner